

# REQUEST FOR APPLICATION

## Minnesota Department of Employment and Economic Development

### Project Overview

The Minnesota Disability Determination Services (DDS) requests applications to work as medical contractor reviewing the disability claims of Minnesotans who have applied for Social Security Disability benefits. All work must occur at the MN DDS or another SSA office. The state anticipates issuing multiple contracts for this work.

### Goal

It is the goal of this offering that qualified contractors will be available to review Social Security Disability claims accurately applying all regulations and clinical considerations to complete reviews in a timely manner.

### Sample Tasks

The contractor will work closely with examiners and other staff within the MN Disability Determination Services to provide accurate and timely reviews of disability claims and other related functions as defined in the contract.

The term of this contract is anticipated to run from October 1, 2012 to September 30, 2013, with the option to extend an additional 4 years in increments determined by the State.

This request for proposal does not obligate the state to award a contract or complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Prospective responders who have any questions regarding this request for application shall submit their questions in writing to the contact person below. The questions and answers will be posted to DEED's webpage [http://www.positivelyminnesota.com/About Us/Competitive Contract Opportunities/PT - Disability Determination Services.aspx](http://www.positivelyminnesota.com/About_Us/Competitive_Contract_Opportunities/PT_-_Disability_Determination_Services.aspx)

Debra Olson, Project Coordinator  
MN Disability Determination Services  
121 7<sup>th</sup> Place East  
St. Paul, MN 55101  
debra.olson@ssa.gov  
Telephone 651-259-7725

Other personnel are **NOT** authorized to discuss this request for application with responders, before the proposal submission deadline. Contact regarding this RFP with any personnel not listed above could result in disqualification.

Proposals submitted in response to the Request for Proposals in this advertisement must be received at the address above. Faxed or emailed proposals will **not** be considered. Following initial selection process, applications will remain open on the DEED website and selected on an as need basis.

## **Proposal Content**

### **Mandatory Requirements**

Responders must submit the following information:

1. Submit one completed application as stated in the application materials. All questions must be answered as directed for the application to be considered.
2. An up to date Curriculum Vitae is required and must be included with the application.
3. The following attached forms must be completed and included with the application:
  - A. Affidavit of Non Collusion
  - B. Certification Regarding Lobbying
  - C. Credential Form (M.D. only)
  - D. Veteran Owned Preference Form (if applicable)

# Application

## Proposal Evaluation

All applicants must complete the following sections:

### Section I

#### Pass/Fail SSA Regulatory Requirements

1. Please complete the following:

I am currently licensed in the State of Minnesota as a:

\_\_\_ licensed physicians (medical or osteopathic doctors);

\_\_\_ licensed or certified psychologists as outlined below

Is licensed or certified as a psychologist at the independent practice level of psychology by the State in which he or she practices;

Possesses a doctorate degree in psychology from a program in clinical psychology of an educational institution accredited by an organization recognized by the Council on Post-Secondary Accreditation;

Or

Is listed in a national register of health service providers in psychology which the Commissioner of Social Security deems appropriate; and

Possesses 2 years of supervised clinical experience as a psychologist in health service, at least 1 year of which is post masters degree.

\_\_\_ qualified speech-language pathologists only for purposes of establishing speech or language impairments. For this source, “qualified” means that the speech-language pathologist must be licensed by the State education agency in the State in which he or she practices, or hold a Certificate of Clinical Competence from the American Speech-Language-Hearing Association.

A copy of your license and expiration date will be required.

This posting is available to individuals that have not previously been a contractor with a MN state agency unless previous contracts ended by mutual agreement of both parties and ended for reasons other than performance issues and/or inappropriate behavior in the workplace. This posting is available to individuals that are able to work within an SSA facility and use SSA systems. The SSA DMA program is not compatible with character recognition software.

## **Section II**

### **Pass/Fail Investigations**

- \_\_\_ I have not been the subject of any investigation within the MN Department of Employment and Economic Security or another state agency in which contract ended by other than mutual agreement of both parties and/or for reasons other than performance issues or inappropriate or criminal behavior in the workplace.
- \_\_\_ I am not currently being investigated or under disciplinary action by the Board of Medical Practice or the MN Board of Psychology.
- \_\_\_ I have had disciplinary action(s) by the MN Board of Medical Practice or the MN Board of Psychology related to poor performance, inappropriate or criminal behavior.
- \_\_\_ I have had disciplinary action(s) in another state due to poor performance, inappropriate or criminal behavior.
- \_\_\_ I have been a contractor for a Disability Determination Services in another state. Contract ended due to mutual agreement of state and contractor.
- \_\_\_ I am not currently working as a panelist performing exams in Minnesota or any other state.

\*\*\*Any current or past incidence of contract ending other than by mutual agreement or due to poor performance or inappropriate or criminal behavior will result in a fail. Application will not be considered.

All successful applicants will be required to pass SSA and/or DEED/DDS security clearance. Applicants may be required to sign a release of information to facilitate communication concerning prior investigations or work issues.

A copy of your license will be required prior to contract execution of selected.

Any falsification of information is reason for rejection of application.

### **Section III Reimbursement Pass/Fail**

Contractor reimbursement is controlled by the Social Security Administration budget for the current fiscal year. Other conditions are stated in the contract due to federal funding. The rate of payment is non-negotiable. All rates are defined by licensing requirements in Section I. The following schedule is for Fiscal Year 2012.

Licensed physicians (medical or osteopathic doctors)	\$70.00/hr.
Licensed or certified psychologists	\$65.50/hr.
Licensed speech-language pathologists	\$63.00/hr.

### **Section IV Qualifications and Experience**

Please answer the following questions. A separate sheet may be attached as needed for explanation.

Do you have previous experience in reviewing Social Security Disability claims? Please state length of experience and locations. Please state specialty areas.

Do you have previous experience reviewing other types of disability claims? Please describe length and type of experience.

Please describe your computer skills. Please describe the types of computer and software programs you have worked with and proficiency level (Word, Epic, Versa, eCAT etc. ).

Are you board certified in any medical specialties?

How many hours per week are you available?

The reviews done by doctors, psychologists and speech pathologists for Social Security Disability require using medical and clinical knowledge to evaluate medical evidence and assess severity in comparison to legal criteria. The reviews are not done in a clinical setting and do not involve contact with patients. The reviews require assessing and managing case reviews in a timely manner. Please describe your ability to evaluate and assess medical evidence and provide a written opinion regarding the evidence of record.

Please add any other information upgrading your qualifications that you think would be helpful in this application.

### **Section V**

An up to date Curriculum Vitae is required and must be included with the application.

The following attached forms must be completed and included with the application:

- A. Affidavit of Non Collusion
- B. Certification Regarding Lobbying
- C. Credential Form (M.D. only)
- D. Veteran Preference Form (if applicable)

## **General Requirements**

### **Affidavit of Non-collusion**

Each responder must complete the attached Affidavit of Non-collusion and include it with the response.

### **Conflicts of Interest**

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

### **Proposal Contents**

By submission of a proposal, Responder warrants that the information provided is true, correct and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the responder to suspension or debarment proceedings as well as other remedies available by law.

### **Disposition of Responses**

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with Minnesota Statutes, section 13.591, after the evaluation process is completed. Pursuant to the statute, completion of the evaluation process occurs when the government entity has completed negotiating the contract with the selected vendor. If the Responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minnesota Statute § 13.37, the Responder must:

- clearly mark all trade secret materials in its response at the time the response is submitted,
- include a statement with its response justifying the trade secret designation for each item, and
- defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this RFP, the Responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the Responder to be proprietary or trade secret materials.

Notwithstanding the above, if the State contracting party is part of the judicial branch, the release of data shall be in accordance with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time.

### **Contingency Fees Prohibited**

Pursuant to Minnesota Statutes Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

### **Sample Contract**

You should be aware of the State's standard contract terms and conditions in preparing your response. A sample State of Minnesota Professional/Technical Services Contract is attached for your reference. Much of the language reflected in the contract is required by statute. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

### **Reimbursements**

Reimbursement for travel and subsistence expenses actually and necessarily incurred by the contractor as a result of the contract will be in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations. Reimbursements will not be made for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

## **Organizational Conflicts of Interest**

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a vendor is unable or potentially unable to render impartial assistance or advice to the State, or the vendor's objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration's Materials Management Division ("MMD") which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to MMD, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the State's rights.

## **Preference to Targeted Group and Economically Disadvantaged Business and Individuals**

In accordance with Minnesota Rules, part 1230.1810, subpart B and Minnesota Rules, part 1230.1830, certified Targeted Group Businesses and individuals submitting proposals as prime contractors will receive a six percent preference in the evaluation of their proposal, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors will receive a six percent preference in the evaluation of their proposal. Eligible TG businesses must be currently certified by the Materials Management Division prior to the solicitation opening date and time. For information regarding certification, contact the Materials Management Helpline at 651.296.2600, or you may reach the Helpline by email at [mmdhelp.line@state.mn.us](mailto:mmdhelp.line@state.mn.us). For TTY/TDD communications, contact the Helpline through the Minnesota Relay Services at 1.800.627.3529.

## **Veteran-Owned Preference**

In accordance with Minnesota Statute §16C.16, subd. 6a, veteran-owned businesses with their principal place of business in Minnesota and verified as eligible by the United States Department of Veterans Affairs' Center for Veteran Enterprises (CVE Verified) will receive up to a 6 percent preference in the evaluation of its proposal.

Eligible veteran-owned small businesses include CVE verified small businesses that are majority-owned and operated by either recently separated veterans, veterans with service-connected disabilities, and any other veteran-owned small businesses (pursuant to Minnesota Statute §16C.16, subd. 6a).

Information regarding CVE verification may be found at <http://www.vetbiz.gov>.

Eligible veteran-owned small businesses should complete and **sign** the **Veteran-Owned Preference Form** in this solicitation. Only eligible, CVE verified, veteran-owned small businesses that provide the required documentation, per the form, will be given the preference.

## **Foreign Outsourcing of Work Prohibited**

All services under this contract shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision also applies to work performed by subcontractors at all tiers.

## **Certification Regarding Lobbying**

Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the Proposer must complete the attached **Certification Regarding Lobbying** and submit it as part of its proposal.

## **Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.**

Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the Proposer must certify the following, as required by the regulations implementing Executive Order 12549.

## **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions**

#### Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverages sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.



## **CERTIFICATION REGARDING LOBBYING**

For State of Minnesota Contracts and Grants over \$100,000

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, A Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Organization Name

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Name and Title of Official Signing for Organization

By: \_\_\_\_\_  
Signature of Official

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Date

**STATE OF MINNESOTA  
AFFIDAVIT OF NONCOLLUSION**

I swear (or affirm) under the penalty of perjury:

1. That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation);
2. That the attached proposal submitted in response to the \_\_\_\_\_ Request for Proposals has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;
3. That the contents of the proposal have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the proposals; and
4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name: \_\_\_\_\_

Authorized Representative (Please Print) \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_

**STATE OF MINNESOTA**  
**VETERAN-OWNED PREFERENCE FORM**

In accordance with Laws of Minnesota, 2010, Chapter 333, Article 2, Sections 3 and 4, veteran-owned businesses with their principal place of business in Minnesota and verified as eligible by the United States Department of Veterans Affairs' Center for Veteran Enterprises (CVE Verified) will receive up to a 6 percent preference in the evaluation of its response.

If responding to a Request for Bid (RFB), the preference is applied only to the first \$500,000 of the response. If responding to a Request for Proposal (RFP), the preference is applied as detailed in the RFP.

Eligible veteran-owned small businesses must be CVE Verified (in accordance with Public Law 109-471 and Code of Federal Regulations, Title 38, Part 74) at the solicitation opening date and time to receive the preference.

Information regarding CVE Verification may be found at <http://www.vetbiz.gov>.

Eligible veteran-owned small businesses should complete and **sign** this form. Only eligible, CVE Verified, veteran-owned small businesses that provide this completed and signed form will be given the preference.

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**I hereby certify that the company listed below:**

1. Is an eligible veteran-owned small business, as defined by Laws of Minnesota, 2010, Chapter 333, Article 2, Sections 3 and 4; and
2. Has its principal place of business in the State of Minnesota; and
3. Is CVE Verified by the United States Department of Veterans Affairs' Center for Veterans Enterprise.

Name of Company: \_\_\_\_\_ Date:\_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Telephone:\_\_\_\_\_

Printed Name: \_\_\_\_\_ Title:\_\_\_\_\_

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**IF YOU ARE CLAIMING THE VETERANS PREFERENCE, SIGN AND RETURN THIS FORM WITH YOUR RESPONSE TO THE SOLICITATION.**

*If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.*

**STATE OF MINNESOTA  
PROFESSIONAL AND TECHNICAL SERVICES CONTRACT**

This contract is between the State of Minnesota, acting through its Commissioner of the Department of Employment and Economic Development ("State") and \_\_\_\_\_ ("Contractor").

**Recitals**

1. Under Minn. Stat. §§ 15.061, 116J.035, and 268A, the State is authorized to engage assistance in carrying out its duties and responsibilities as is necessary.
2. The State Disability Determination Services (DDS) is in need of Minnesota licensed medical doctor, licensed psychologist or a licensed speech language pathologist to provide input in making Social Security Disability decisions.
3. The Contractor represents that it is qualified and agrees to perform all services described in this contract to the satisfaction of the State.
4. The Contractor is not an employee of the State and will not be an employee of the State by performing the services covered by this contract.
5. The Contractor understands the legal responsibilities, including federal and state income taxes, Federal Insurance Contribution Act and Workers' Compensation obligations, that are incumbent upon Contractor operating under this contract as an "independent contractor."

**Contract**

**1 Term of Contract**

- 1.1 **Effective date:** \_\_\_\_\_, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.  
**The Contractor must not begin work under this contract until this contract is fully executed and the Contractor has been notified by the State's Authorized Representative to begin the work.**
- 1.2 **Expiration date:** \_\_\_\_\_, or until all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 **Survival of Terms.** The following clauses survive the expiration or cancellation of this contract: 8. Indemnification; 9. State Audits; 10. Government Data Practices and Intellectual Property; 14. Publicity and Endorsement; 15. Governing Law, Jurisdiction, and Venue; and 16. Data Disclosure.

**2 Contractor's Duties**

The Contractor, who is not a state employee, will:

- 2.1 Review and evaluate medical case file data in accordance with Social Security Administration (SSA) policy and guidelines and within State production and quality standards. Minimum

- productivity expectations are 2 completed cases per hour for physical consultants and 1.5 cases per hour for psychological consultants. A request for more development counts for .5 of a completed case. Time spent on duties unrelated to production such as training/phone calls/meetings/walk-ins etc. is not included in productivity calculations.
- 2.2 Respond, in accordance with agency policy and guidelines, to written and/or oral queries from the disability examiner staff and others regarding specific case related medical or psychological issues.
  - 2.3 Provide, as needed and in accordance with SSA policy and procedures, statements regarding a claimant's residual level of functioning.
  - 2.4 Obtain, when necessary, additional medical information via telephone contact with a treating or consulting medical resource.
  - 2.5 Prepare and present medical in-service lectures to new and existing staff; keep abreast of new and existing medical policies and procedures in the Social Security Disability program.
  - 2.6 Review and sign, as appropriate and as required by Federal regulations, completed disability determination (SSA-831, SSA-833, SSA-834).
  - 2.7 Use the computer as needed to fulfill SSA and DDS requirements. Efficient use of the computer to satisfy the standards set forth in item 2.1.
  - 2.8 Not perform any private services, or services not authorized under this contract, using the State provided equipment, including, but not limited to, telephone and computer, or perform any private services, or services not authorized under this contract while on State premises.
  - 2.9 Act in a professional manner when performing services under this contract, being civil in all dealings with State employees, will be ethical in the performance of services under this contract and will not breach any confidentiality.

### **3 Time**

The Contractor must comply with all the time requirements described in this contract. In the performance of this contract, time is of the essence.

### **4 Consideration and Payment**

4.1 **Consideration.** The State will pay for all services performed by the Contractor under this contract as follows:

(A) **Compensation.** The Contractor will be paid \_\_\_\_\_.

(B) **Travel Expenses.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of this contract will not exceed \$\_\_\_\_\_; provided that the Contractor will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations, which is incorporated in to this contract by reference. The Contractor will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel.

Minnesota will be considered the home state for determining whether travel is out of state.

- (C) **Total Obligation.** The total obligation of the State for all compensation and reimbursements to the Contractor under this contract will not exceed \$\_\_\_\_\_.

#### 4.2 **Payment.**

(A) **Invoices.** The State will promptly pay the Contractor after the Contractor presents a monthly signed invoice for contractual services (ES-70264-03) that includes only agency consultant related duties excluding travel time, lunch, and personal errands.

(B) **Federal funds.** Payments under this contract will be made from federal funds obtained by the State through Titles II and XVI of the Social Security Act of 1935, CFDA number 96.00, (Public Law 74-271 as amended). The Contractor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with federal requirements

### 5 **Conditions of Payment**

All services provided by the Contractor under this contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the Office of the Secretary of State. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

### 6 **Authorized Representatives**

The State's Authorized Representative is Debra Olson 651-259-7725 or his/her successor, and has the responsibility to monitor the Contractor's performance and the authority to accept the services provided under this contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Contractor's Authorized Representative is \_\_\_\_\_, or his/her successor. If the Contractor's Authorized Representative changes at any time during this contract, the Contractor must immediately notify the State.

### 7 **Assignment, Amendments, Waiver, and Contract Complete**

7.1 **Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this contract without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this contract, or their successors in office.

7.2 **Amendments.** Any amendment to this contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.

7.3 **Waiver.** If the State fails to enforce any provision of this contract, that failure does not waive the provision or its right to enforce it.

7.4 **Contract Complete.** This contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

## **8 Indemnification**

In the performance of this contract by Contractor, or Contractor's agents or employees, the contractor must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the state, to the extent caused by Contractor's:

1. Intentional, willful, or negligent acts or omissions; or
2. Actions that give rise to strict liability; or
3. Breach of contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the State's failure to fulfill its obligation under this contract.

## **9 State Audits**

Under Minnesota Statute § 16C.05, subdivision 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this contract are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this contract.

## **10 Government Data Practices and Intellectual Property**

10.1 **Government Data Practices.** The Contractor and State must comply with the Minnesota Government Data Practices Act, Minnesota Statute Ch. 13, (or, if the State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State under this contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this contract. The civil remedies of Minnesota Statute § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minnesota Statute Ch. 13, by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this Clause, the Contractor must immediately notify the State, and consult with the agency as to how the Contractor should respond to the request. The Contractor's response to the request shall comply with applicable law.

### **10.2. Intellectual Property Rights.**

(A) **Intellectual Property Rights.** The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents *created and paid for under this contract*. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract. Works includes

“Documents.” Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this contract. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of this contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be “works made for hire.” The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State’s ownership interest in the Works and Documents.

(B) *Obligations*

- (1) *Notification.* Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this contract, the Contractor will immediately give the State’s Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.
- (2) *Representation.* The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor’s expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Contractor’s or the State’s opinion is likely to arise, the Contractor must, at the State’s discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

## **11 Workers’ Compensation and Other Insurance**

The Contractor certifies that it is in compliance with Minn. Stat. § 176.181, subd. 2, pertaining to workers’ compensation insurance coverage. The Contractor’s employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers’ Compensation Act on behalf of these employees or agents and any



claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the State's obligation or responsibility.

**12 Debarment by State, its Departments, Commissions, Agencies or Political Subdivisions**

Contractor certifies that neither it nor its principles is presently debarred or suspended by the State, or any of its departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the contract award was based. Contractor shall provide immediate written notice to the State's authorized representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

**13 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion**

Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore Contractor certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549. Contractor's certification is a material representation upon which the contract award was based.

**14 Publicity and Endorsement**

14.1 **Publicity.** Any publicity regarding the subject matter of this contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this contract.

14.2 **Endorsement.** The Contractor must not claim that the State endorses its products or services.

**15 Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this contract. Venue for all legal proceedings out of this contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**16 Data Disclosure**

Under Minnesota Statute § 270C.65, Subdivision 3 and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

**17 Payment to Subcontractors**

(If applicable) As required by Minnesota Statute § 16A.1245, the prime contractor must pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

## **18 Termination**

- 18.1 ***Termination by the State.*** The State or commissioner of Administration may terminate this contract at the State or Commissioner of Administration's option, with or without cause, upon 7 days' verbal or written notice to the Contractor. Contractor may not work more than authorized in attachment A, NHA during the 7 day notice period. The State may immediately terminate this contract by verbal or written notice upon breach of any provision of this contract by contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis for services satisfactorily performed.
- 18.2 ***Termination for Insufficient Funding.*** The State may immediately terminate this contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding within a reasonable time of the State's receiving that notice.
- 18.3 ***Termination by the Contractor.*** The Contractor may terminate this contract at contractor's option upon 7 days written or verbal notice to the State. Contractor may not work more than authorized in attachment A, NHA during the 7 day notice period.
- 18.4 ***Termination by mutual consent.*** The State and the Contractor may terminate this contract at anytime by written agreement.
- 18.5 ***Suspension of Contract due to Investigation.*** The state may suspend this contract, and contractor may perform no more work, immediately upon verbal or written notice of investigation if contractor is the subject of investigation by the state or any other entity for criminal, human rights, sexual harassment, discrimination or any other reason for investigation.

## **19 Minnesota Statute § 181.59**

The vendor will comply with the provisions of Minnesota Statute § 181.59 which requires:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a

violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

**20 E-Verify Certification (In accordance with Minn. Stat. §16C.075)**

For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

**21 Other Provisions**

21.1 The Contractor agrees not to perform consultative examinations for the Minnesota Disability Determination Services.

21.2 The Contractor agrees to perform all case review on State's premises at the currently hourly rate or review at the option of the state cases offsite at the following rate of pay:

(A) Physical/medical consultants will be paid for 20 minutes of time for each completed case assessment that results in the final physical assessment for the claim.

(B) Physical consultants will be paid at the rate of 10 minutes per case review for case assessments that result in a case returned to the examiner to obtain additional medical documentation.

(C) Consultants performing mental assessments will be paid for 30 minutes of work for each assessment that results in a final medical assessment.

(D) Consultants performing mental assessments will be paid for 15 minutes of time for an assessment that asks the examiner to obtain additional documentation.

**[Signatures as required by the State.]**